

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, ) Case No. 2:19-cv-00170  
v. )  
DENNIS J. OURY, and )  
SUSAN E. OURY, )  
Defendants. )  
\_\_\_\_\_  
)

**COMPLAINT**

The United States of America, by and through undersigned counsel, complains and alleges as follows:

1. The United States brings this action to reduce to judgment unpaid federal income taxes owed by Dennis J. Oury and Susan E. Oury.
2. This action is authorized and requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States, and is commenced at the direction of the Attorney General of the United States, pursuant to 26 U.S.C. § 7401.
3. This Court has jurisdiction over this civil action pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1340, 1345.
4. Venue is proper in this district and division pursuant to 28 U.S.C. §§ 1391(b) and 1396 because the tax liabilities accrued in this district and the defendants reside in this district.
5. Defendant Dennis J. Oury resides in Collier County, Florida, within the jurisdiction of this Court, and is named as a party to this action because his unpaid federal tax liabilities are the subject of this action.

6. Defendant Susan E. Oury resides in Collier County, Florida, within the jurisdiction of this Court, and is named as a party to this action because her unpaid federal tax liabilities are the subject of this action.

7. On the dates and in the amounts indicated in the table below, a delegate of the Secretary of the Treasury assessed against Dennis J. Oury and Susan E. Oury (collectively, "Defendants") the income taxes for the years identified, plus applicable penalties and interest:

<b>TAX YEAR</b>	<b>ASSESSMENT DATE</b>	<b>TAX</b>	<b>INTEREST</b>	<b>PENALTIES</b>
2004	10/13/2008	\$91,537.00	\$21,473.10	\$1,570.73 * \$14,476.72 ** \$13,436.60 ***
2005	08/05/2013	\$157,031.00	\$72,334.10	\$22,488.00 ** \$65,215.20 † \$22,488.00 ***
2006	04/06/2009	\$136,711.00	\$11,463.02	\$3,910.17 * \$16,130.03 ** \$8,602.68 ***
	08/05/2013	\$75,039.00		\$109,887.00 †
2007	08/13/2012 08/05/2013	\$187,331.00	\$19,950.50	\$5,514.00 * \$110,342.00 †
2008	06/18/2012	\$93,259.00	\$4,322.81	\$773.83 * \$6,558.67 ** \$5,710.18 ***
2009	06/11/2012 06/25/2012	\$95,989.00	\$8,345.03	\$20,179.35 ** \$11,659.18 *** \$2,130.00 *
2010	06/11/2012	\$4,318.00	\$71.25	\$30.00 *

				\$359.55                **
				\$111.86                ***
2011	02/13/2017	\$7,973.00	\$968.32	\$89.00                * \$1,091.92                ** \$1,213.25                ***
2012	02/13/2017	\$11,712.00	\$1,844.67	\$210.00                * \$2,635.20                ** \$2,693.76                ***
2013	01/09/2017	\$9,335.00	\$1,007.48	\$2,032.87                ** \$1,490.77                ***
2014	04/17/2017	\$10,735.00	\$786.60	\$164.00                * \$2,057.62                ** \$1,143.13                ***
2016	07/03/2017 08/06/2018	\$5,999.00 \$4,536.00	\$52.16	\$89.98                ***

\* estimated tax penalty – IRC § 6654

\*\* failure to file penalty - IRC § 6651(a)(1)

\*\*\* failure to pay penalty - IRC § 6651(a)(2)

† fraudulent failure to file – IRC § 6651(f)

8. A delegate of the Secretary of the Treasury properly gave notice of the taxes described in paragraph 7, above, to Defendants and made demand for payment.

9. Despite notices of the assessments and demands for payment, Defendants have failed to fully pay the assessments described in paragraph 7 above. As of March 4, 2019, Defendants owe the United States \$1,595,431.96 on those assessments, plus penalties and interest that continue to accrue subsequent to March 4, 2019 as provided by law.

10. Under Section 6502 of the Internal Revenue Code, the United States generally has 10 years from the date of an assessment to bring a proceeding in court to collect an unpaid tax. While the tax assessments against Defendants for 2004 were made in 2008, events since that

assessment tolled the period to bring this suit. Specifically, on May 3, 2018, Defendants requested an installment agreement from the IRS for all the years at issue in this case. That request was rejected on or about September 19, 2018. As a result, the 10-year period to bring this suit was tolled by at least 169 days.

WHEREFORE, Plaintiff, United States of America, respectfully prays for the following:

- A. That this Court enter judgment against Defendants Dennis J. Oury and Susan E. Oury and in favor of the United States for their unpaid federal income tax liabilities from the years 2004 through 2014 and 2016 in the amount of \$1,595,431.96 as of March 4, 2019, plus any further interest and statutory additions on the assessments as allowed by law, to the date of payment;
- B. That this Court grant the United States such other relief, including costs, as is just and equitable.

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

*/s/ Michael W. May*  
MICHAEL W. MAY  
Trial Attorneys  
U.S. Department of Justice, Tax Division  
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Ben Franklin Station  
Washington, D.C. 20044  
Telephone: 202-616-1857 (May)  
Fax: 202-514-9868  
Email: Michael.W.May@tax.usdoj.gov

Of Counsel:

Maria Chapa Lopez  
United States Attorney  
*Attorneys for Defendant United States*

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b>		<b>DEFENDANTS</b>																								
<p>(b) County of Residence of First Listed Plaintiff _____  <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number)</p>		<p>County of Residence of First Listed Defendant _____  <i>(IN U.S. PLAINTIFF CASES ONLY)</i>          NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF          THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>																								
<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
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<b>V. ORIGIN</b> (Place an "X" in One Box Only)				<input type="checkbox"/> 1 Original Proceeding <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from Another District (specify) _____ <input type="checkbox"/> 6 Multidistrict Litigation																						
<b>VI. CAUSE OF ACTION</b>		Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:																								
<b>VII. REQUESTED IN COMPLAINT:</b> <b>IF ANY</b> <i>(See instructions):</i>		<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	<b>DEMAND \$</b> <b>JURY DEMAND:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	CHECK YES only if demanded in complaint: <b>DOCKET NUMBER</b> _____																						
DATE		SIGNATURE OF ATTORNEY OF RECORD																								
<b>FOR OFFICE USE ONLY</b>																										
RECEIPT # _____		AMOUNT _____		APPLYING IFFP _____																						
				JUDGE _____																						
				MAG. JUDGE _____																						

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
  
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
  
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
  
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
  
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
  
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
  
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
  
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

*Plaintiff(s)*

v.

Civil Action No.

*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))**

This summons for (*name of individual and title, if any*) \_\_\_\_\_  
was received by me on (*date*) \_\_\_\_\_.

I personally served the summons on the individual at (*place*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with (*name*) \_\_\_\_\_,  
a person of suitable age and discretion who resides there,  
on (*date*) \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on (*name of individual*) \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of (*name of organization*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other (*specify*): \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

*Plaintiff(s)*

v.

Civil Action No.

*Defendant(s)*

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for (*name of individual and title, if any*) \_\_\_\_\_  
was received by me on (*date*) \_\_\_\_\_.

I personally served the summons on the individual at (*place*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with (*name*) \_\_\_\_\_,  
a person of suitable age and discretion who resides there,  
on (*date*) \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on (*name of individual*) \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of (*name of organization*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other (*specify*): \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: